

EXHIBIT 3

[PLAINTIFF'S RELEVANT DISCOVERY REQUESTS TO ERIC S. ELICE]

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Attorneys for Plaintiff,
DONNA CORBELLO

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONNA CORBELLO, an individual,

Plaintiff,

vs.

THOMAS GAETANO DEVITO, an
individual, *et al.*,

Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANT ERIC S. ELICE**

Plaintiff, Donna Corbello, by her attorneys, and pursuant to Fed. R. Civ. P. 33, herewith propounds the following interrogatories to Defendant Eric ("Rick") S. Elice, to be answered

1 separately, in writing, and under oath, in accordance with the instructions and definitions
2 hereinafter set forth, within thirty (30) days from the date of service hereof.

3 **INSTRUCTIONS**

4 1. These interrogatories seek answers as of the date hereof, but are continuing in
5 nature, so that any additional information relating hereto which Defendant hereafter acquires, or
6 which hereafter becomes known to Defendant, up to and including the time of trial, shall be
7 furnished to Plaintiff immediately after such information is acquired or becomes known, in
8 accordance with Fed. R. Civ. P. 26(e)(1).

9 2. In each instance in which an interrogatory is answered upon information and belief,
10 Defendant shall set forth the basis for such information and belief.

11 3. In each instance in which Defendant denies knowledge or information sufficient to
12 answer an interrogatory, Defendant shall first set forth the name and address of each person, if
13 any, known or believed to have such knowledge or information.

14 4. In the event that a privilege is alleged as to any information requested hereby, or if
15 an interrogatory for any reason otherwise is not answered in full, Defendant shall state the specific
16 grounds for not answering said interrogatory fully, and shall answer said interrogatory to the
17 complete extent to which it is not objectionable. Fed. R. Civ. P. 33(b)(3)-(4). Such answer shall
18 describe the nature of the information for which a privilege is claimed, with sufficient particularity
19 to enable Plaintiff to assess the applicability of the privilege.

20 5. In response to those interrogatories requiring the identification of any document or
21 tangible thing, such document or thing may be produced for inspection and copying with the
22 answers to these interrogatories in lieu of identification, provided such document or thing
23 constitutes a "business record" under Fed. R. Civ. P. 33(d).

24 6. In the event that any document or tangible thing responsive to any of the following
25 interrogatories has been lost or destroyed, Defendant shall identify, to the extent possible, any
26 such document or thing; the date(s) on which the loss or destruction first was discovered; the
27 person(s) who first discovered the loss or destruction, and the person(s) most knowledgeable about
28 the content or composition of such lost or destroyed document or thing.

7. In the event that any document or tangible thing responsive to any of the following interrogatories is not now within Defendant's possession, custody, or control, Defendant shall state the name, address, and telephone number of each person known to or believed by Defendant to have such possession, custody, or control, and shall identify which document or thing is in such person's possession, custody, or control.

DEFINITIONS

For purposes of these interrogatories, the following terms shall have the meanings hereinafter given:

1. "Defendant," "you," and "your," as used herein, shall refer to the nominal defendant, Eric S. Elice, his attorneys, agents, and representatives, and all partnerships, joint ventures, corporations, and related business entities in which he is a member, officer, director or shareholder.

2. "Defendant DeVito," as used herein, shall refer to the nominal defendant, Thomas Gaetano DeVito, and his attorneys, agents, and representatives.

3. "Person," as used herein, shall refer to both natural persons and corporate or other business entities, whether or not in the employ of Defendant, and the acts and knowledge of a "person" are defined to include the acts and knowledge of that person's officers, directors, members, partners, employees, representatives, agents, and attorneys.

4. "The Work," as defined herein, shall refer to each and all of the following: (a) the biographical work concerning Defendant DeVito and the Four Seasons which forms the subject matter of U.S. Copyright Registration No. Txu 454 118; (b) the biographical work concerning Defendant DeVito which was identified in Defendant's Initial Disclosures, as served on or about December 17, 2008; and, (c) any version of the foregoing biographical work produced by Plaintiff in connection with Plaintiff's Initial Disclosures herein.

5. "Copyright," or copyrights," as used herein, shall refer to any and all of the exclusive rights which together comprise a copyright, under 17 U.S.C. § 106.

6. "Jersey Boys," as used herein, shall refer to the Tony® Award-winning musical work of the performing arts bearing that title, which debuted in La Jolla, California in 2004,

1 debuted on Broadway, in New York, New York in 2005, began national and international tours
 2 thereafter, and is performed at "permanent" locations, such as Palazzo Hotel, Resort & Casino in
 3 Las Vegas, Nevada, regardless of whether particular tours, companies, locations or divisions of the
 4 show are owned, organized, or incorporated separately.

5 7. "The Jersey Boys Production," as issued herein, shall refer to *Jersey Boys*; all
 6 persons involved in creating the play, including the writers and director thereof; and, all persons
 7 who have controlling ownership interests therein, control over the content thereof, or control over
 8 the locations at which it is performed, to the extent known by Defendant.

9 8. "Jersey Boys Collateral Items," as used herein, shall refer to all official or licensed
 10 goods made available for sale, or distributed to the public at any time, which are or were
 11 authorized by the *Jersey Boys Production*, and which reference, are associated with, or are tied to,
 12 *Jersey Boys*.

13 9. "The Four Seasons Partnership," shall refer to Defendants Robert J. Gaudio and
 14 Frankie Valli, as members of an informal partnership or joint venture, together with their attorney,
 15 Peter C. Bennett, and any corporations, proprietorships, partnerships, limited liability companies,
 16 or other business organizations in which said Defendants share ownership or control.

17 10. "Document," or "documents," as used herein, is to be construed in the customary
 18 broad sense described in Fed. R. Civ. P. 34(a), and shall include, but shall not be limited to, letters,
 19 notes, correspondence, and electronic mail, whether handwritten, typed, or electronically
 20 produced; electronically stored information of any type; memoranda; communications; summaries
 21 or records of telephone conversations; summaries or records of personal conversations or
 22 interviews; diaries; books; manuscripts; notebooks; records (whether printed, written, or
 23 electronically, magnetically, or optically recorded); minutes; bills and invoices; purchase orders;
 24 receipts; contracts; agreements; drawings; sketches; advertising and promotional matter recorded
 25 in any medium (whether or not published); literature; press releases; pamphlets; circulars; trade
 26 letters; newspaper clippings; operating manuals; instruction bulletins; cables; telegrams; electronic
 27 mail; tape or other recordings, whether analogue or digital, including cassettes, acetates, record
 28 albums or singles, 8-track tapes, compact disks, reel-to-reel tapes, videocassettes, CD-R's, and

1 DVD's; test data; reports (including copyright research reports and opinions of counsel); forecasts;
2 working papers; charts; drafts; indices; diskettes; memory cards and sticks; hard drives; data
3 sheets; data processing cards; marginal comments appearing on any paper; periodicals; any other
4 written, recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or
5 reproduced; and, all other physical objects, including, without limitation, toys; souvenirs; and,
6 photographs or recordings on or in which any information is embodied.

7 11. "Identify," shall mean, when used with respect to a person, to state the person's
8 name, principal business address, telephone number, if known, and in the case of a natural person,
9 his or her home address, telephone number, place of employment, title, and job duties. To
10 "identify" a document, shall mean to provide a brief description of the document sufficient to
11 support a request for production, including the general nature of the subject matter, the date, the
12 identity of the author or recipient, if any, and, if the document embodies an agreement, the parties
13 to such agreement. To "identify" a thing, shall mean to provide a brief description of the thing
14 sufficient to support a request for production, including any numbers, markings, dates, or other
15 identifying characteristics. To "identify" a statement, shall mean, when used in reference to an
16 oral statement, to state the name of the speaker; the date of the statement; the place at which the
17 statement was made; the person or persons to whom the statement was addressed, if practicable;
18 otherwise a general description of the person(s) to whom the statement was addressed; the subject
19 matter of the statement; and if the statement was memorialized in writing or by other recording,
20 the date and present location of such writing or other recording.

21 12. "Relate to," "relating to," "relating thereto," "regarding," "in regard to," and "in
22 connection with," shall mean constitutes, contains, embodies, reflects, identifies, states, refers to,
23 deals with, or is in any way pertinent to the specified subject.

24 13. "Or," shall mean "and/or."

25 14. "By," shall mean, "by or on behalf of."

26 15. "Any," and "all," shall mean "any and all."
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INTERROGATORIES

2. State your exact financial interest in/share in profits from *Jersey Boys*, including, without limitation, your share in profits from U.S. and international performances of the show, profits from the *Jersey Boys* book published by Broadway Books, and profits from the sale or licensing of *Jersey Boys Collateral Items*; explain how, and under what formula(s), your financial interest/share is calculated, and identify all documents relating thereto..

4. State the date on which you first become aware of Rex Conrad Woodard, explain the context in which such first awareness arose, and identify all statements and documents relating thereto.

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17. Identify all statements you have made to any person concerning this action, Rex Woodard, or the Work, whether orally or in a document (including electronic mail messages and published or unpublished interviews), between 1999 and the present date.

18. Identify and describe all documents, including, but not limited to, summaries, notes, outlines, dialogue excerpts, scripts, research materials, and other items that were presented to or used by actors who auditioned for the first *Jersey Boys* production in La Jolla, California, and for each such document, identify the person who provided them with same.

1 21. Identify all statements made to you regarding the authorship of the Work, and
2 identify all documents relating thereto.

3 22. State the date on which you first learned of the filing of this lawsuit in either the
4 United States District Court for the Eastern District of Texas or this Court, and describe the
5 manner in which you first learned of this action.

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22 27. State how many copies of the Work you have made, if any, and identify every
23 person whom you have provided with a copy of the Work, for any purpose.

1 29. Describe all disagreements, whether formal or informal, between you and any other
2 defendant herein, at any time, concerning the authorship of *Jersey Boys*, or any portion thereof,
3 and identify all documents relating thereto.

4 30. Identify all documents relating to copyright registrations sought from the United
5 States Copyright Office in which you are named as a claimant.

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9 RESPECTFULLY SUBMITTED:

10
11 By 

12 Gregory H. Guillot
13 George L. Paul
14 John L. Krieger
15 Robert H. Mckirgan

16 Attorneys for Plaintiff,
17 DONNA CORBELLO
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CERTIFICATE OF SERVICE

I, George L. Paul, do hereby certify that a true and correct copy of the foregoing document was served, by U.S. Mail, postage prepaid, on this, 8th day of January, 2009, in an envelope addressed to:

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Attorneys for Plaintiff,
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DONNA CORBELLO, an individual,

Plaintiff,

vs.

THOMAS GAETANO DEVITO, an
individual, *et al.*,

Defendants.

Case No. 2:08-cv-00867-RCJ-PAL

**PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS,
ELECTRONICALLY STORED
INFORMATION AND THINGS TO
DEFENDANT ERIC S. ELICE**

Plaintiff, Donna Corbello, by her attorneys, and pursuant to Fed. R. Civ. P. 34, herewith requests that Defendant, Eric S. Elice, produce the documents and things described below for

1 inspection and copying, in accordance with the instructions and definitions hereinafter set forth,
2 within thirty (30) days from the date of service hereof.

3 **INSTRUCTIONS FOR PRODUCTION**

4 1. Each request for production set forth herein shall be deemed continuing in nature,
5 and Defendant shall update, revise, and otherwise keep current, any information provided in
6 response to each request, as facts or circumstances become known or change, in accordance with
7 Fed. R. Civ. P. 26(e)(1).

8 2. In the event that any document requested is not readily available in a form suitable
9 for copying and inspection (e.g., word-processor or computer-stored information), Defendant
10 shall, in advance of the date specified for production, inform requesting counsel thereof, and
11 arrange a suitable method of copying or providing same to requesting counsel for review.

12 3. All documents in the possession, custody, or control of Defendant, or any of
13 Defendant's representatives, which are responsive to, or relate to, the descriptions set forth herein,
14 shall be produced. Control, means that Defendant, or any of Defendant's representatives, either
15 has the documents, has access to the documents, or has the right to obtain the documents from the
16 person(s) or entity(ies) currently having possession thereof.

17 4. In the event that any document responsive or related to any request herein is known
18 to Defendant, or any of Defendant's representatives, to have existed, but no longer exists, or is
19 known to have been in the possession or control of Defendant, or any of Defendant's
20 representatives, but no longer is in their possession or control, Defendant shall identify such
21 document(s), and:

- 22 a. State the last known date for the document(s)' existence, or
23 Defendant's or any representative's possession or control;
24 b. Identify the person or entity having possession or custody of the
25 document(s) on the last-known date of existence, or the last-known
26 date of possession, custody or control by Defendant, or any
27 representative thereof;
28 c. State the length of each such document;
d. State the reason(s) why each such document was destroyed, no longer
exists, or no longer is in the possession, custody, or control of
Defendant or Defendant's agent or attorney;

e. Describe the contents of each such document;

f. If the document still exists, identify the person(s) or entity(ies) which today have possession, custody, or control thereof.

5. If any document responsive or related to the requests set forth hereinbelow, which would have been produced on the date set for production, had it existed or been in Defendant's (or Defendant's representatives') possession, custody, or control, later comes into existence, or into the possession, custody, or control of Defendant, or Defendant's representatives, Defendant shall notify requesting counsel immediately, and such document shall be produced to said counsel at the earlier possible time.

6. With respect to any document specified for which a claim of privilege or work product immunity is made, Defendant shall indicate the nature of the document; identify by name, address, occupation, title and business affiliation, the writer, the addressee and all recipients thereof, the general subject matter to which the document relates, and the date thereof. Where possible, the document shall be produced in redacted form, with the privileged or work-product protected matter blocked out. In all cases, the specific grounds for the claim of privilege or work-product immunity must be specified, with sufficient particularity to permit Plaintiff to assess the applicability of the privilege or any claimed work product immunity.

7. For each document produced, the request to which it is deemed responsive must be specified.

8. Defendant's response to this request is required in writing, pursuant to Fed. R. Civ. P. 34.

DEFINITIONS

1. In reading and interpreting each request for production set forth hereinbelow, words generally are to accorded their normal and customary meanings, and it is to be assumed that the normal and customary breadth of interpretation and definition apply, rather than narrow, technical definitions. In addition, for purposes of these requests, the following terms shall have the meaning given herein:

A. "Document," or "documents," refers to the original, any copies of the

1 original, and any nonidentical copies thereof and/or amendments thereto, of any written,
2 preprinted, typed, electronically-stored, or visually- or aurally-recorded material of any kind,
3 including, but not limited to, letters, notes, and correspondence, whether handwritten, typed, or
4 electronically produced; electronically stored information, memoranda; communications;
5 summaries or records of telephone conversations; summaries or records of personal conversations
6 or interviews; diaries; books; notebooks; records (whether printed, written, or electronically,
7 magnetically, or optically recorded); minutes; bills and invoices; purchase orders; check stubs;
8 receipts; contracts; agreements; drawings; sketches; advertising and promotional matter recorded
9 in any medium (whether or not published); literature; press releases; pamphlets; circulars; trade
10 letters; newspaper clippings; operating manuals; instruction bulletins; cables; telegrams; electronic
11 mail; tape or other recordings; test data; reports (including copyright research reports and opinions
12 of counsel); studies; forecasts; working papers; charts; drafts; indices; diskettes; data sheets; data
13 processing cards; marginal comments appearing on any paper; periodicals; any other written,
14 recorded, transcribed, punched, taped, filmed, or graphic matter, however produced or reproduced;
15 and, any other physical objects, including, without limitation, photographs or recordings on or in
16 which any information is embodied.

17 B. "Electronically stored information," shall have the meaning accorded
18 thereto under FED. R. CIV. P. 34(a).

19 C. "Persons," shall mean natural persons, corporations, partnerships,
20 associations, and other legal entities, governments or governmental bodies, commissions, boards,
21 agencies, or other entities.

22 D. "Defendant," refers to the nominal defendant, Eric S. Elice, his
23 representatives, and any affiliated business entity in which Defendant holds an ownership interest.

24 E. "Representative," or "Representatives," includes, but is not limited to,
25 Defendant's legal counsel, consultants, accountants, employees, and agents.

26 F. "Defendant DeVito," as used herein, shall refer to the nominal defendant,
27 Thomas Gaetano DeVito, and his attorneys, agents, and representatives.
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1 G. “The Work,” as defined herein, shall refer to each and all of the following:
 2 (a) the biographical work concerning Defendant DeVito and the Four Seasons which forms the
 3 subject matter of U.S. Copyright Registration No. Txu 454 118; (b) the biographical work
 4 concerning Defendant DeVito which was identified in Defendant’s Initial Disclosures, as served
 5 on or about December 17, 2008; and, (c) any version of the foregoing biographical work produced
 6 by Plaintiff in connection with Plaintiff’s Initial Disclosures herein.

7 H. “Copyright,” or copyrights,” as used herein, shall refer to any and all of the
 8 exclusive rights which together comprise a copyright, under 17 U.S.C. § 106.

9 I. “Jersey Boys,” shall refer to the Dodger Theatricals Ltd. musical production
 10 and work of the performing arts bearing that title, which debuted in La Jolla, California in 2004,
 11 debuted on Broadway, in New York, New York in 2005, began national and international tours
 12 thereafter, and is performed at “permanent” locations, such as Palazzo Hotel, Resort & Casino in
 13 Las Vegas, Nevada, regardless of whether particular tours, companies, locations or divisions of the
 14 show are organized or incorporated separately, for business reasons.

15 J. “The Jersey Boys Production,” shall refer to *Jersey Boys*; all persons
 16 involved in creating the play, including the writers and director thereof; and, all persons who have
 17 controlling ownership interests therein, veto power with respect to the content thereof, or control
 18 over the locations at which it is performed.

19 K. “Jersey Boys Collateral Items,” shall refer to all official or licensed goods
 20 made available for sale, or distributed to the public at any time, which are or were authorized by
 21 the *Jersey Boys Production*, and which reference, are bared on, are associated with, or are tied to,
 22 *Jersey Boys*.

23 L. “The Four Seasons Partnership,” shall refer to Defendants Robert J. Gaudio
 24 and Frankie Valli, as members of a formal or informal partnership, together with their attorney,
 25 Peter C. Bennett, and any corporations, proprietorships, partnerships, limited liability companies,
 26 or other business organizations in which they share ownership or control.

27 M. “Relate to,” “relating to,” “relating thereto,” “regarding,” “in regard to,” and
 28 “in connection with,” shall mean constitutes, contains, embodies, reflects, evidences, identifies,

1 states, refers to, deals with, or is in any way pertinent to the specified request.

2 N. "Or," shall mean "and/or."

3 **DOCUMENTS AND THINGS TO BE PRODUCED**

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20 6. All documents, electronically stored information or things relating to Defendant
21 DeVito's provision of any copies of the Work to you.
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11. All documents and electronically stored information evidencing agreements you have with any of the defendants herein concerning *Jersey Boys*, including, but not limited to, financial agreements or understandings regarding *Jersey Boys* or the *Jersey Boys Production*, or which relate to the sharing, allocation, or distribution of revenues, profits, losses, or other accounting entries among the various persons who have a financial interest therein, including yourself.

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18. All documents, electronically stored information or things relating to the Work.

22. All documents, electronically stored information or things relating to any dispute(s) or disagreement(s) between or among any of the defendants in this action, concerning the manner in which any treatment, script, or libretto for *Jersey Boys* was created, or their respective contributions thereto.

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4 24. All documents, electronically stored information or things relating to the decision
5 to incorporate elements of Defendant DeVito's life story or history with the band into the script
6 for *Jersey Boys* or any predecessor script or treatment, and the reaction thereto by any of the
7 defendants herein.
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24 29. All documents, electronically stored information or things relating to any
25 conveyance, transfer, or license whatsoever of any right(s) in the Work which you contend
26 authorized you to use, reference, or adapt the Work or appropriate any content therein, for any
27 purpose.
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34. Defendant's federal income tax returns for the tax years 1999 to the present.

By

Gregory H. Guillot
George L. Paul
John L. Krieger
Robert H. Mckirgan

Attorneys for Plaintiff,
DONNA CORBELLO

CERTIFICATE OF SERVICE

I, George L. Paul, do hereby certify that a true and correct copy of the foregoing document was served, by U.S. Mail, postage prepaid, on this, 8th day of January, 2009, in an envelope addressed to:

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